

Appln No. 10/800,276

Amdt date July 15, 2005

Reply to Office action of March 15, 2005

Amendments to the Drawings:

The attached sheets of drawings includes changes to Fig. 2 and an additional Fig. 5. These sheets replace the original sheets including Fig. 2.

Attachment: Replacement Sheets

Annotated Sheet Showing Changes

Appln No. 10/800,276

Amdt date July 15, 2005

Reply to Office action of March 15, 2005

REMARKS/ARGUMENTS

The above identified patent application has been amended. Claims 1-9, 11-16 and 26 are now in the application. Claims 1, 11 and 12 have been amended. Claims 10, 13 and 17-25 have been cancelled without prejudice. Claim 26 has been added.

The Examiner has objected to the Drawings under 37 CFR 1.83(a), noting that the drawings must show every feature of the invention specified in the claims. Accordingly, Applicant has amended Fig. 2 to show a water pump 75, water intake 76 and a cooling system 79 connected to the engine 50. Page 15, line 3 of the specification has been likewise amended to denote these elements in the context of Fig. 5. Support for these amendments to the Fig. 5 and the specification may be found on page 7, line 21, which recites:

"In conjunction with these improvements, an improved I/O system is provided having a cooling system connected to the engine, a water pump connected to the cooling system, a water intake connected to the water pump, and wherein the water intake is located outside the housing of the stern drive."

In addition, Fig. 5 has been added showing the stern drive 60 lifted to a maintenance position completely above the waterline 45. Page 8, line 5 and page 13, line 32 of the specification have been likewise amended to refer to Fig. 5. Support for these amendments may be found may be found on page 12, line 10, which recites:

Appln No. 10/800,276

Amdt date July 15, 2005

Reply to Office action of March 15, 2005

"The elongated actuator 70 of the present invention can effectively reposition the stern drive 60 between an operative position below the waterline 45 and a maintenance position wherein the stern drive 60 is lifted partially or even completely above the waterline 45. Because the stern drive 60 is mounted on the transom 41 such that the top portion of stern drive 60 lies above the waterline 45, this rotation can result in the entire stern drive 60 being above the waterline 45 when the actuator 70 is fully extended."

The Examiner has rejected Claim 10 under 35 U.S.C. §112, first paragraph, for failing to comply with the enablement requirement, and Claims 19-21 as being indefinite. As noted above, these claims have now been cancelled without prejudice.

Claims 1-16 have been provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of Claims 16-31 of copending application 10/826,590. By the amendment filed April 7, 2005, these claims have been cancelled in application 10/826,590 so that they may be pursued in the present application.

The Examiner has rejected Claim 1 under 35 U.S.C. §103 as being unpatentable over Brodbeck et al. (U.S. Patent No. 5,340,345) ("Brodbeck") in view of Kiekhaefer (U.S. Patent No. 3,136,281) ("Kiekhaefer"). Claim 1 has been amended, and calls in part for, "a transmission driven by the engine driveshaft; an upper driveshaft driven by the transmission and spaced vertically apart from the engine driveshaft, said driveshaft passing through the transom". The Applicant submits that the

Appln No. 10/800,276

Amdt date July 15, 2005

Reply to Office action of March 15, 2005

invention as claimed in amended Claim 1 is neither taught, described, nor suggested in Brodbeck, in view of Kiekhaefer, even in view of such additionally cited references as Clerk (U.S. Patent No. 2,905,133) ("Clerk"). Brodbeck and Kiekhaefer for example do not disclose multiple driveshafts including both an engine driveshaft and an upper driveshaft joined by a transmission. And while Clerk does disclose a pair of sprockets 44 and 45 joined by a sprocket chain 46, Clerk does not disclose an upper driveshaft "passing through the transom" as called for in Claim 1.

Furthermore, the Applicant submits that it would not be possible to combine the sprocket and chain assembly of Clerk with the structures of Brodbeck and Kiekhaefer to provide for the invention of Claim 1. Specifically, the sprockets 44 and 45 of Clerk are joined by a sprocket chain 46 and are mounted inside a chain case 36 which, as disclosed in column 2, lines 28-30, "is mounted inside the boat adjacent the transom 11 and is rigidly connected to the bracket 12 by means of bracing members 37, 38 and 39." As further disclosed in column 1, lines 67-69, the bracket 12 is "fitt[ed] over the upper edge of the transom and clamped thereto by a screw." Because the support structure for the sprocket assembly including the bracket 12 of Clerk fits over the transom 11, and because the shaft 29 runs above the bracket 12 and therefore the transom itself, it would not be obvious to one skilled in the art to incorporate the sprockets 44 and 45 and chain case 36 of Clerk into Brodbeck and Kiekhaefer while still providing an upper driveshaft passing through the transom as called for in Claim 1. Accordingly, the

Appln No. 10/800,276

Amdt date July 15, 2005

Reply to Office action of March 15, 2005

Applicant submits that Claim 1 is not unpatentable over the cited prior art. Claims 2-9, 13-16 and 26 are dependent on Claim 1. As such, Claims 2-9, 14-16 and 26 are believed allowable based upon Claim 1 and for the additional limitations contained therein.

Claims 11 and 12 have now been rewritten in independent form. Claim 12 has been rejected as unpatentable over Brodbeck in view of Kiekhaefer, and in further view of Clerk. However the Applicant respectfully submits that Claim 12 calls for, "a lower pulley connected to the engine driveshaft, an upper pulley connected to the upper driveshaft, and one or more belts connecting the lower pulley to the upper pulley", and that Clerk discloses neither pulleys nor belts. Rather, as shown in column 2, lines 49-59, Clerk features a pair of sprockets 44 and 45 joined by a sprocket chain 46. Accordingly, the Applicant submits that Claim 12 is not unpatentable over Brodbeck in view of Kiekhaefer, even in view of Clerk. Claim 11 has not been rejected by the Examiner as unpatentable over the cited prior art.

As indicated above, new Claim 26 has been added to more completely cover certain aspects of the invention, and calls, for "an upper driveshaft... fixed relative to the engine driveshaft." The Applicant submits that the cited prior art does not disclose such a driveshaft. Brodbeck and Kiekhaefer for example do not disclose multiple driveshafts including both an engine driveshaft and an upper driveshaft. Clerk discloses

Appln No. 10/800,276

Amdt date July 15, 2005

Reply to Office action of March 15, 2005

in column 2, lines 1-27 a shaft 29 extending forward through the arm 15 of the L-shaped member, which member is pivotable about a transverse horizontal axis with respect to the bracket 12. Thus, the shaft 29 pivots with the L-shaped member around the transverse horizontal axis and is not "fixed in a vertical orientation relative to the engine driveshaft" as called for by Claim 26. Accordingly, the Applicant submits that Claim 26 is also not unpatentable over the cited prior art for these additional reasons, in addition to its dependency from claim 1.

In view of the above amendment and remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. Furthermore, it is also submitted that the drawings are now in proper form under 37 CFR 1.83(a) such that they show every feature of the invention specified in the claims. It is further submitted that the amendments to the drawings and to the specification add no new matter and are fully supported by the application as originally filed for the reasons noted above. Accordingly, applicant respectfully requests a timely indication of allowance. Should there be any further issues that can be addressed by telephone, applicant invites the Examiner to contact the undersigned at the number indicated below.

Appln No. 10/800,276

Amdt date July 15, 2005

Reply to Office action of March 15, 2005

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By 

Colin Dorrian

Reg. No. 54,658

626/795-9900

CTD/ctd

CTD PAS627897.2--*-07/15/05 6:20 PM

FIG. 2

